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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH

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CRIMINAL PRODUCTIONS, INC.,  
Plaintiff,

v.

DOES 1-32,

Defendants.

**MEMORANDUM DECISION AND  
ORDER**

Case No. 2:17-cv-550-DB

District Judge Dee Benson

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Before the court are three motions: 1) Plaintiff's Motion to Dismiss its Complaint against Darren Brinkley (Dkt. No. 44); 2) Plaintiff's Motion to Dismiss Brinkley's Counterclaim for Lack of Jurisdiction (Dkt. No. 45); and 3) Plaintiff's Motion to Stay Proceedings Pending a Determination of Ongoing Subject Matter Jurisdiction (Dkt. No. 49.)

Defendant Darren Brinkley opposes the Motion to Dismiss his counterclaim, asserting that such a dismissal would allow Plaintiff to engage in "cut and run" litigation tactics. (Dkt. No. 53 at 7.) When a plaintiff voluntarily dismisses its claims, a court has discretion to maintain jurisdiction over compulsory counterclaims. *See Smith v. Leeches*, 263 F.3d 972, 977 (9th Cir. 2001). But counterclaims for declaratory judgment must constitute "a case of actual controversy" for the court to exercise that jurisdiction. 28 U.S.C. § 2201(a).

Here, Brinkley's counterclaim is essentially a mirror image of the Complaint, seeking a declaratory judgment that he did not infringe Plaintiff's work. (*See* Dkt. No. 32.) Plaintiff has moved to dismiss the Complaint with prejudice. (Dkt. No. 44.) Such a dismissal resolves the only claim and controversy in Brinkley's Counterclaim. Accordingly, Plaintiff's Motion to

Dismiss Complaint against Brinkley and Plaintiff's Motion to Dismiss Counterclaim for Lack of Subject Matter Jurisdiction are hereby granted. The court makes no determination regarding attorneys fees and costs pursuant to Section 505 of the Copyright Act, as no motion for fees or costs is pending before the court.

Conclusion

Plaintiff's Motion to Dismiss Complaint against Brinkley (Dkt. No. 44) and Motion to Dismiss Counterclaim for Lack of Jurisdiction (Dkt. No. 45) are hereby GRANTED and the action against Brinkley is dismissed with prejudice. Plaintiff's Motion to Stay Proceedings (Dkt. No. 49) is MOOT.

DATED this 6<sup>th</sup> day of July, 2018.

BY THE COURT:

A handwritten signature in black ink that reads "Dee Benson". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

Dee Benson  
United States District Judge